

To the Federal Election Commission
 Regarding Complaint #5624
 Filed by Day Merrill
 From: Michael Jaliman
 Jaliman for Congress

VIA FACSIMILE 202 219-3923

Date: Jan 12, 2005

To Jeff Jordan:

Regarding the Complaint number 5624 submitted by Day Merrill, charges listed as one through 4 are wholly without merit.

I would like to mention that Day Merrill and Michael Locey were disgruntled campaign workers. Contemporaneous with filling her FEC complaint Ms. Merrill were suing me personally in small claims court over how much money she and Locey were owed by Jaliman for Congress. The monetary claims of Merrill and Locey have since been settled for \$3800.

Just before the election Merrill and Locey who are life and business partners and I settled on a joint payment to their consulting company of \$2,000 to settle all claims arising from their participation in the campaign. During negotiations Ms. Merrill intimated that she would attack the campaign if we didn't come to a settlement. After we agreed to a settlement she wrote up a non-disclosure agreement as the settlement document. This settlement agreement failed to include a clause stating that they were being paid \$2,000.

Ms. Merrill responded angrily to what I thought was a routine request, that we add a clause to the non-disclosure stating that they were being paid \$2,000. and that the money was being paid by Innovation Consultants as settlement of all claims. She then made a demand for more money and when that was not met, issued a negative press release and sent in a complaint to the FEC.

I was told by Michael Locey during the course of later settlement talks, held after the election and after the filing of the FEC complaint that Ms. Merrill thought that specifying that they were being paid \$2,000 by Innovation Consultants in the document was a trick that would later be used to get her in trouble. I do not know if she thought that I would charge her with blackmail. I have never had anything but positive intentions toward her and tried repeatedly to carve out a paid role that would use her skills and provide value to the campaign.

What follows is a copy of a recent article that appeared in the local newspaper on her law suit.

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Ex-candidate settles suit by workers

By CARA MATTHEWS

THE JOURNAL NEWS

(Original publication January 11, 2005)

Michael Jaliman of Patterson, who ran unsuccessfully for U.S. Rep. Sue Kelly's seat last fall, recently paid a total of \$3,800 to settle two lawsuits brought by former campaign workers.

Ontario, Canada, residents Day Merrill and Michael Locey sued Jaliman in Patterson Town Court before Election Day. In separate small claims cases, Merrill demanded \$2,944 and Locey wanted \$2,809. The two live and work together. All parties agreed to an out-of-court settlement after Justice John King heard Merrill's case and issued a Dec. 20 ruling awarding her \$2,944.

"For me, it's unfortunate that there was a dispute over money with Day. We had been on close terms many years ago," Jaliman said yesterday.

Merrill said she and Locey opted for a settlement because Jaliman had threatened to appeal King's decision on Merrill's case.

The settlement occurred before Dec. 27, when Locey's case was scheduled to be heard. The couple received the \$3,800 before New Year's Eve, Locey said.

District 19 covers Putnam, northern Westchester, and parts of Rockland, Dutchess and Orange counties. Jaliman defeated Janine Selendy of North Salem, the endorsed Democratic candidate, in a primary. Kelly, a Katonah Republican, easily defeated Jaliman.

Merrill has said she learned in late August that Jaliman was a candidate for Congress. She at first volunteered on his campaign, then sought payment to continue after the primary. Locey, Merrill's partner in a consulting firm, also worked for Jaliman.

Jaliman, Locey and Merrill had discussed different payment amounts for services, but nothing was put in writing. Merrill said she and Locey found it hard to work for Jaliman, and the relationship soured. Merrill claimed in her case that Jaliman had agreed to pay both of them \$7,000 up front, another \$7,000 after fund raising got started, and a third \$7,000 if he defeated Kelly.

Jaliman said he at one point offered \$3,500 for both to work in the district and finish the campaign.

According to Merrill, she and Locey continued part time until the end of October. At that point, they said they would accept a total of \$2,000 to settle with Jaliman. Jaliman testified in December that he faxed them a copy of a \$2,000 check but never mailed it. Jaliman and the Canadian couple were disputing the terms of a contract the candidate wanted them to sign. Merrill and Locey then filed suit.

Jaliman, who confirmed that he had been considering an appeal, said he agreed to \$3,800 because "I didn't see any point in continuing to argue about a difference of less than \$2,000."

Jaliman has two other suits pending. One is a defamation claim he filed against Selendy, two campaign staffers and the husband of her deputy campaign manager. In October, he filed a federal suit against Gov. George Pataki, challenging the constitutionality of having a congressional primary about six weeks before the general election.

Send e-mail to [Cara M](mailto:Cara.M)

Response in Brief to the charges listed as one through 4 in her complaint:

1. This was not a violation. The campaign had not crossed the \$5,000 threshold on Aug 26. The FEC filings have been done truthfully.
2. No monies were diverted to the account of Reva Jaliman and I made no request of campaign staff to do so.
3. No commercials for Innovation Consultants were aired during the campaign. No commercials for Innovation Consultants were aired prior to the campaign. No commercials for Innovation Consultants have been aired subsequent to the campaign as of the date of this response.
4. Innovation Consultants is my consulting company. It acted as a general consultant to the campaign. It obtained discounted rates for advertising on behalf of the campaign. It is owed fees for work done on behalf of the campaign. The debt owed by Jaliman for Congress to Innovation Consultants was listed on FEC filings. The settlement payment to Ms. Merrill (completed after the filing of the FEC complaint) was paid by Innovation Consultants. Adding a clause in a settlement agreement with Merrill and Locey that they were being paid \$2,000 by Innovation Consultants in settlement of all claims for work done on behalf of Jaliman for Congress was not a violation of FEC rules.

Further response to the specific charges in the Merrill Complaint:

1. Regarding clause number one and her assertion that I did not file on August 26 with the Federal Election Commission, my campaign was not required to do so at that time as it did not cross the \$5,000 threshold for spending or funds raised as of August 26.
2. I filed a statement of organization on July 29, 2004 three days after I declared my candidacy for Congress. My campaign did not cross the \$5,000 in expenditures or money raised until September of 2004. I filed a financial report for the period ending Sept 30 in a timely manner. I have filed subsequent financial reports in a timely manner.
3. Further in the first clause in which Merrill states that "While Mr. Jaliman did meet the October 15 FEC filing deadline, we cannot speak to the veracity of the information that he provided." **This charge demonstrates a willingness to make accusations in the absence of any knowledge.** Her role during the primary and general election campaigns neither included spending authorization, financial record keeping or participation in discussions on spending.
4. Regarding another point in the first clause of her complaint: "all labor paid and unpaid" are to be reported. It is not my understanding that the unpaid labor of campaign volunteers needs to be reported. Persons who volunteered on the

- campaign including Merrill and her "life partner" and business partner Michael Locey who volunteered during the primary and are not listed on the FEC report.
5. Regarding the second clause they make an untrue accusation that I asked to divert funds from online donations to my mother's account. All of the funds paid through Verisign to the online credit card facility were paid automatically by the credit card facility into the Jaliman for Congress bank account. I was asked by John Landsdale, the Web Master, for the name of someone else to use on the credit application and gave him my mother's name. Merrill's accusation of wrongdoing is not based on knowledge and it does not represent the truth. There was no diversion of funds paid to Jaliman for Congress into a personal account.
 6. The campaign cut off the ability of Locey to make changes to the web site when in the course of negotiations with Michael Locey and Day Merrill over money; concerns were raised that they could use their access to post a negative message on the site.
 7. Michael Jaliman and my company Innovation Consultants are owed money by Jaliman for Congress, thus the accusation by Merrill that I sought to divert money from the campaign to my mother is not only untrue it is implausible on its face.
 8. Concerning the third point no commercials were made and aired for Innovation Consultants on cable TV. We had discussed running commercials for Innovation Consultants to build name recognition in a dispersed media market with limited network TV. And indeed if we had run business commercials during the campaign they would not have violated FEC regulations, according to the AO2004-31 ruling regarding business ads that are not electioneering.
 9. Regarding the fourth point Innovation Consultants paid for a bank check to be sent to Equilibria for \$2,000 to cover payment for services from Day Merrill and Michael Locey. The check was never sent as Merrill cancelled the agreement that she and Locey had made and instead asked for more money and threatened to cause the campaign harm. Innovation Consultant's payments on behalf of Jaliman for Congress for campaign expenses were reported on FEC filings. No one asked Merrill or Locey to lie about their relationship to the Jaliman for Congress Campaign. The payment that was eventually made to Merrill was drawn on Innovation Consultants.

I request that the FEC recognize that the allegations made by Ms. Merrill are without merit. I request that the committee take no further action on this matter. If however you have further questions please do not hesitate to contact me.

Sincerely,



Michael Jaliman

Signed under penalty of perjury
Jan 12, 2005